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May 28, 2024

VIA ECF

Honorable Jessica G.L. Clarke  
United States District Court, Southern District of New York  
500 Pearl Street, Room 1040  
New York, New York 10007

Re: *Nexamp, Inc. v. Consolidated Edison, Inc. et al.*, Case No. 24-cv-001502 (JGLC)  
Letter Motion to Seal

Dear Judge Clarke:

We write on behalf of defendants Consolidated Edison, Inc. and Orange and Rockland Utilities, Inc. ("Defendants"), to respectfully request the Court enter an order formally sealing exhibits 2 and 3 ("Confidential Documents") to Defendants' motion to dismiss the complaint (ECF No. 20). Rule 21.7(b), SDNY ECF Filing Rules & Instructions.

Defendants seek leave to file the Confidential Documents under seal because certain portions of the documents contain sensitive business and financial information. Namely, exhibit 2 has sensitive financial information specific to plaintiff, Nexamp, Inc. and exhibit 3 has sensitive business information specific to Orange and Rockland's operations as a public utility. The privacy interest to protect trade secrets and confidential business information is sufficient to overcome the presumption of public filing. *Iacovacci v. Brevet Holdings LLC*, 2022 WL 101907, \*2 (S.D.N.Y., Jan. 11, 2022).

Courts routinely grant applications to seal in instances when information can be misused by malicious third parties to disrupt a litigant's operations. *Personalized Media Communications, LLC v. Netflix, Inc.*, 2020 Westlaw 7093892 (S.D.N.Y. Nov 20, 2020). Here, the Confidential Documents have commercially sensitive information that, if disclosed, could result in harm to both entities involved. Moreover, the Confidential Documents do not contain the type of information that, if sealed, will impact the judicial process or deprive the public of needed information. *In Re: B & C KB Holding GMBH*, 2023 WL 2021299 (S.D.N.Y. Feb. 14, 2023).

Prior to making this request, my office contacted the SDNY ECF Help Desk, via telephone on Tuesday, May 28, 2024, to request an emergency seal of the Confidential

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Documents pursuant to Rule 21.7(a). The Help Desk restricted access to the Confidential Documents pending Your Honor's Order. Further, Plaintiff's counsel consents to the within request.

Respectfully,

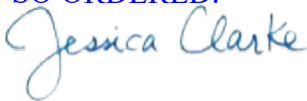


Joan Toro

cc: Counsel of Record for Plaintiff (Via ECF)

This letter-motion to seal is granted temporarily. The Court will assess whether to keep the materials at issue sealed or redacted when deciding the underlying motion. The Clerk of Court is directed to terminate ECF No. 22 and seal ECF Nos. 20-2 and 20-3. Access is restricted to attorneys appearing for the parties and court personnel.

SO ORDERED.



JESSICA G. L. CLARKE

United States District Judge

Dated: May 29, 2024

New York, New York